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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/686,597	03/15/2007	Claudia E. Britton	1172.005B	6652
23405	7590	07/06/2007		
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			EXAMINER MRUK, BRIAN P	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 07/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

11/686,597

Applicant(s)

BRITTON, CLAUDIA E.

Examiner

Brian P. Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/15/07
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. The examiner makes of record that Parent Application Nos. 11/324,348 and 60/646,017 do not provide support for the lower limitation of 0.05 parts by weight of at least one corrosion inhibitor that is recited in independent claim 1, or support for the lower limitations of 0.01 parts by weight of a phosphonate-functional alkyl sodium siliconate and 0.01 parts by weight of a phosphate ester that is recited in independent claim 22. Therefore, the effective filing date for instant claims 1-23 is March 15, 2007.
2. The examiner construes the phrase "about 29 percent biobased content" that is recited in instant claim 18 to mean the amount of biobased material as fraction weight or percent of weight of the total material, wherein the term "biobased material" is defined as organic material in which carbon is derived from a renewable resource via biological processes, as defined by applicant on page 10, paragraph 23 of the instant specification.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/324,348. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending Application No. 11/324,348 claims a similar method and cleaning composition for cleaning the exterior surface of an aircraft comprising: 1 to 10 parts by weight of at least one fatty acid methyl ester; 10 to 35 parts by weight of at least one ethoxylated alcohol having an HLB ranging from about 10 to about 14; 1 to 10 parts by weight of at least one alkyl polyglycoside having an HLB ranging from about 10 to about 14; 10 to 25 parts by weight of at least one hydrotrope; 0.1 to 1 parts by weight of an alkali metal silicate; 0.1 to 2 parts by weight of at least one corrosion inhibitor in an amount effective to prevent corrosion on metals; and 30 to 1000 parts by weight water; wherein the composition has pH>9.5, and is non-toxic and biodegradable, and a second method and cleaning composition for cleaning the exterior surface of an aircraft comprising: 10 to 25 parts by weight of at least one C9-C11 ethoxylated alcohol having an HLB ranging from about 10

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to about 14; 10 to 25 parts by weight of at least one alkanolamide; 1 to 10 parts by weight of at least one C8-C10 ethoxylated alcohol having an HLB ranging from about 10 to about 14; 1 to 10 parts by weight of methyl oleate; 1 to 10 parts by weight of at least one alkyl polyglycoside having an HLB ranging from about 10 to about 14; 0.1 to 1 parts by weight of an alkali metal silicate; 0.01 to 1 parts by weight of an alkali metal hydroxide; 0.1 to 1 parts by weight of a phosphonate-functional alkyl sodium silicate; 0.1 to 1 parts by weight of an aliphatic phosphate ester; 0.1 to 2 parts by weight of at least one modified carboxylic acid derivative corrosion inhibitor in an amount effective to prevent corrosion on aluminum, magnesium, titanium, and steel; 30 to 1000 parts water; and optionally, 0.1 to 1 parts by weight of hexahydro-1,3,5-tris(2-hydroxyethyl)-s-triazine; wherein the composition conforms to MIL-PRF-87937D (see claims 1-20 of copending Application No. 11/324,348), as required in the instant claims. Therefore, instant claims 1-23 are an obvious formulation in view of claims 1-20 of copending Application No. 11/324,348.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. The examiner notes that copending Application No. 11/324,348 was allowed on April 24, 2007.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPM

Brian P Mruk  
June 30, 2007

*Brian P. Mruk*

Brian P Mruk  
Primary Examiner  
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